

A G. Contract No.: KR02-0943TRN
ADOT ECS File No.: JPA 01-154
Project: TI Improvements
Section: US 60 and Mesa Drive
TRACS No.: H4638 01C
Budget Source Item No.: 17002

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MESA

THIS AGREEMENT is entered into March 16, 2005, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, acting by and through its INTERMODAL TRANSPORTATION DIVISION (the "State") and the CITY OF MESA, ARIZONA, acting by and through its MAYOR and CITY COUNCIL (the "City")

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City

3. The parties agreed to have the State design and construct dual left turn lanes and one additional through lane in each direction at the traffic interchange of Mesa Drive and the US 60, hereinafter referred to as the "Project". The purpose of this Agreement is to define each parties responsibility.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

NO. 27420
Filed with the Secretary of State
Date Filed: 03/16/05

Janice K. Brewer
Secretary of State

By: Donny D. Haeneveld

II. SCOPE OF WORK

1. The State:

a Prepared and provided design plans to City standards, and specifications required for the Project

b Administered the Project, called for bids, awarded one or more contract(s) and made all payments to the contractor. Is responsible for any contractor claims for extra compensation or delays for whatever reason attributable to the State.

c Received right-of-way clearance from the City for construction of the Project, and provided construction cost estimates and other such documents required for construction bidding.

d Has reviewed plans at the 60%, 95% and 100% level and reviewed comments and final changes at the Stage IV Resolution Meeting with the City.

e Upon execution of this Agreement, will invoice the City for \$182,400.00, its portion of the final cost of the project. This represents a 5.7% percent match of Federal funds and a fixed rate of 14% for construction engineering and administration costs.

2. The City:

a Upon execution of this Agreement and receipt of an invoice, will remit to the State \$182,400.00 identified in 1 e. above.

b Has reviewed plans at the 60%, 95% and 100% level, reviewed comments and final changes at the Stage IV Resolution Meeting with the State.

c Granted to the State the necessary right-of-way clearances for the construction of the Project.

d Upon completion and acceptance of the Project, will be responsible for providing proper maintenance and electrical power for the streetlights and traffic signals at the interchange of Mesa Drive and the US 60 at the City's expense.

e Will conduct all maintenance work so as to minimize traffic congestion and interference with through traffic. All traffic control shall meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual"

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect for a period of twenty-five (25) years from the effective date, unless this Agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This Agreement will be automatically renewed for successive periods of twenty-five (25) years unless either party shall give notice in writing to the other not less than one-month (1) or more than three-months (3) prior to the initial or renewed expiration date. The City shall be obligated to provide proper maintenance and electrical power for the streetlights and traffic signals reference above in Section 2 d. of this Agreement. The State shall in no way be obligated to maintain said Project should the City fail to budget or provide for proper maintenance as set forth in this Agreement.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract

5. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

6. **Non-Availability of Funds:** Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows.

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007-3212
FAX 602-712-7424

City of Mesa
City Manager
P O. Box 1466
Mesa, AZ 85211-1466

9. Pursuant to Arizona Revised Statutes, Section 11-952 (D), attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF MESA

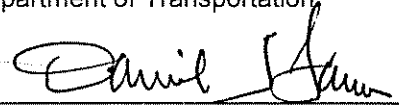
By


MICHAEL HUTCHINSON
City Manager

STATE OF ARIZONA

Department of Transportation

By

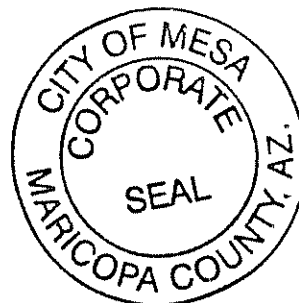

DANIEL S. LANCE, P.E.
Deputy State Engineer, Valley Transportation

ATTEST

By


BARBARA JONES
City Clerk

12-January-2005 Final- ly



RESOLUTION NO. 8410

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION AND THE CITY OF MESA FOR IMPROVEMENTS TO THE SUPERSTITION FREEWAY (US 60) AND MESA DRIVE OVERPASS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, AS FOLLOWS:

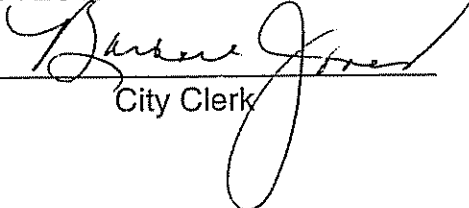
Section 1: That the cost sharing agreement between the State of Arizona Department of Transportation and the City of Mesa for the design and construction of dual left turn lanes and one additional through lane in each direction at the Superstition Freeway (US 60) and Mesa Dr traffic interchange (ADOT JPA No. 01-154); is hereby approved.

Section 2: That the City Manager, Michael T. Hutchinson, or his designated representative, is authorized and directed to execute the agreement on behalf of the City of Mesa, and the City Clerk is authorized and directed to attest to the signature of the City Manager or his authorized designated representative thereon.

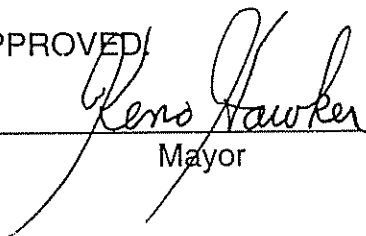
PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 7th day of February, 2005.



ATTEST:


City Clerk

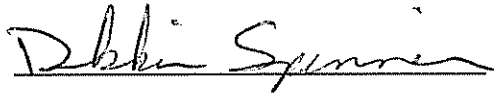
APPROVED:


Mayor

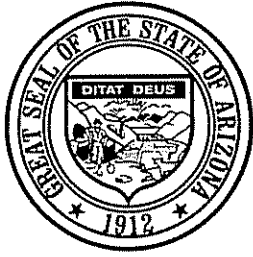
MESA CITY ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF MESA, an agreement among public agencies, which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954, and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement

DATED this 14th day of February, 2005.



Mesa City Attorney



**ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION**

MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

Direct: (602) 542-8859
Fax: (602) 542-3646

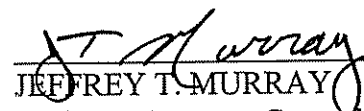
**INTERGOVERNMENTAL AGREEMENT
DETERMINATION**

A.G. Contract No. KR02-0943TRN (JPA 01-154), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED March 9th, 2005.

TERRY GODDARD
Attorney General


JEFFREY T. MURRAY
Assistant Attorney General